



August 25, 2006

Via Hand Delivery and Electronic Mail

Mary L. Cottrell, Secretary
Massachusetts Department of
Telecommunications and Energy
One South Station
Boston, MA 02110

***Re: Comments of RNK Inc. d/b/a RNK Telecom on E 9-1-1 Surcharge Funding:
Proposals for Post-2007 Funding Mechanism, Docket No. D.T.E. 06-33.***

Dear Secretary Cottrell,

Enclosed for filing in the above-referenced proceeding, please find the comments of RNK Inc. d/b/a RNK Telecom.

Please contact me directly at (781) 613-6168 or sharon@rnktel.com if you have any questions regarding this filing.

Sincerely yours,

/s/

Sharon Schawbel

cc: Tina W. Chin
Michael Isenberg
April Mulqueen
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Berhane Adhanom
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Service List

**BEFORE THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

)	
In the Matter of an Investigation by)	
the Department of Telecommunications and Energy)	
on its own Motion to Develop a Long Term Plan)	D.T.E. 06-33
for Funding Enhanced 911 Services)	
)	

COMMENTS OF RNK INC. D/B/A RNK TELECOM

In accordance with the Massachusetts Department of Telecommunications and Energy's (the "DTE" or "Department") May 31, 2006 Procedural Notice, RNK Inc. d/b/a RNK Telecom ("RNK") hereby respectfully submits the following comments on the proposals for post-2007 E911 funding mechanism submitted in the above-captioned proceeding.

I. INTRODUCTION

RNK Inc., a small, privately-held company, based in Dedham, Massachusetts and founded in 1992, has grown from its initial niche of local resale and prepaid long distance calling cards to an Integrated Communications Provider, marketing local and interexchange telecommunications services, as well as Internet Services and IP-enabled services. RNK is a registered Competitive Local Exchange Carrier ("CLEC") in Massachusetts and offers wholesale and retail residential and business telecommunications services via resale and its own facilities. Via its own facilities, RNK serves a variety of customers, including IP-Enabled telephone customers, with a broad range of telecommunications and non-telecommunications services.

II. THE E 9-1-1 SURCHARGE SHOULD NOT BE COLLECTED BY INFRASTRUCTURE PROVIDERS

In its proposal, the Statewide Emergency Telecommunications Board ("SETB") suggests

that any E 9-1-1 surcharge should “be collected by entities that own, control, or manage the connection points to the E 9-1-1 system and remitted to SETB in a similar fashion to the current wire-line and wireless surcharges”¹ SETB suggests that these “‘connection points’ are present in all technological environments,” and that the entities that manage or control them usually provide the “last mile” of service to the subscriber, making them a logical point from which to collect the surcharge.² For Voice Over Internet Protocol (“VoIP”) services, this “last mile” of service is provided by the subscriber’s broadband provider; for land-line subscribers, it would be provided by the Local Exchange Carrier connecting its Central Office to the subscriber’s phone; and for wireless subscribers, the owner of the cell tower to which they connect.³

Although SETB’s proposal appears to cast a wide enough net to maximize surcharge revenues, especially in the realm of VoIP or other IP-enabled voice services, in practice it is unlikely to do so efficiently, resulting in either over or under collection of surcharges. In traditional wireline and cellular/wireless (“CMRS”) environments, the end-user’s service provider most often is the same entity that provides the last mile connection. VoIP services by their nature, however, challenge the traditional link between facilities and services. For example, a customer may obtain their high-speed broadband connection from Verizon, but obtain IP-based voice services from RNK. In this scenario, the broadband provider (“Verizon”) *is not necessarily aware* that their end-user is running a VoIP application that enables access to E911.

Under these circumstances, it would be nearly impossible for the broadband provider to effectively and accurately collect an E 9-1-1 surcharge from all of its subscribers that are

¹ *Proposal for Post-2007 Funding Mechanism of the Statewide Emergency Telecommunications Board, Docket No. DTE 06-33, p. 4 (filed Jul. 28, 2006).*

² *Id.*

³ *See id.*

connected to the E 9-1-1 system *via a third-party provider* such as RNK, Vonage, or AT&T, as it simply would not know which subscribers to bill for the surcharge. Indeed, to glean such information, broadband providers would likely need to employ packet-sniffing, or other similarly intrusive methods, to determine the nature of the traffic being transported over their network.⁴ This practice would undoubtedly raise numerous privacy issues and concerns, in addition to being cumbersome to administer, especially since there is no valid reason for broadband providers to obtain this information, and even less reason for VoIP service providers to provide it based on reasons of competitive and customer privacy.

Furthermore, as a result of the FCC's VoIP E 9-1-1 Order,⁵ a call placed to E 9-1-1 from a VoIP end user only incidentally uses the broadband service provider's network to reach the PSAP. Providers of so-called "interconnected VoIP services" are required to route calls to PSAPs via the *wireline* E 9-1-1 system.⁶ In that case, a LEC, such as Verizon, Level 3, or RNK, provides the connectivity to the PSAP either directly or via Verizon's selective routers. Under SETB's proposal, it is unclear that VoIP end users would not be charged *twice* for E 9-1-1 access, once on the broadband service, and again, indirectly, through the LEC that provides the physical connection to the PSAP.⁷ As such, the Department should not require entities that own, control, or manage the connection points to the E 9-1-1 system to collect and remit the surcharge to SETB.

⁴ Of course, merely detecting a VoIP protocol such as Session Initiated Protocol ("SIP") would be insufficient, as there would be no way to tell if the VoIP call was initiated via a service that provides access to E911, such as RNK's REVOS™ local-telephone-replacement services, or others such as SkypeOut, that do not.

⁵ In the Matters of IP-Enabled Services (WC Docket No. 04-36) and E911 Requirements for IP-Enabled Service Providers (WC Docket No. 05-196), FCC 05-116 (June 3, 2005).

⁶ *Id.* at ¶ 37.

⁷ Even then, the LEC providing the underlying E 9-1-1 transport may be in a similar position to that of the broadband providers in not knowing exactly how many end users could actually "use" the E911 service via their network.

III. RETAIL SERVICE PROVIDERS SHOULD BE RESPONSIBLE FOR COLLECTION OF THE E 9-1-1 SURCHARGE FROM THEIR END USERS

To avoid the problems associated with requiring “connection point” providers to collect E 9-1-1 surcharges, RNK suggests that the surcharge be collected on a subscriber account basis by the entity providing the retail service or application that allows its end users to access the PSTN and 9-1-1 system (hereafter the “Retail Service Provider”). It is this Retail Service Provider (e.g., VoIP provider, LEC, CMRS carrier, OnStar-type service provider) and not the “connection point” or broadband provider that obtains a direct economic benefit from the end user’s ability to access the E 9-1-1 system. Accordingly, it is the content provider that should carry the burden -- collection of the end user E 9-1-1 surcharge -- associated with this benefit.

Moreover, the Retail Service Provider will be acutely aware of those end users with access to the E 9-1-1 system and will be able to invoice them directly. The Retail Service Provider will know, for example, that a small business with seven VoIP “lines” or line-equivalents over a common broadband facility should be billed multiple E 9-1-1 surcharges, as is the case with multiple landline business customers. Administratively, the collection and remittance of funds will be similar, if not identical, to the methods currently used for CLECs and ILECs.

In addition, the underlying telecommunications provider, which provides wholesale telecommunications services to a VoIP provider or other customer should also not be responsible for the collection or remittance of this surcharge as it also has no relationship or connection with the end user. Typically, the underlying telecommunications provider provisioning numbers and underlying connectivity to VoIP providers and other customers does not know the specific purpose for which its services are being used or the particular end user associated with those services. The underlying telecommunications provider’s relationship with the subscriber is

simply too remote for it to have any means of even establishing a basis for assessing the surcharge, and as such, the underlying telecommunications provider should not be held responsible for collecting or remitting such charge. To avoid these problems, RNK suggests that the surcharge be collected on a subscriber account basis by the entity directly providing E 9-1-1 services to end users.

IV. RNK SUPPORTS SEVERAL POINTS MADE BY VERIZON IN ITS COMMENTS

In addition to the propositions set forth above, RNK also supports a number of suggestions set forth in Verizon's proposal⁸ regarding the E 9-1-1 surcharge and urges the Department to consider the same. These include: E 9-1-1 funds being used solely for the provision and administration of E 9-1-1 service, and not for the funding of other public safety services, which should be funded by their own sources; E 9-1-1 funding coming from all end users that have access to such services regardless of the access method; giving VoIP providers adequate time to implement necessary process changes that will allow them to comply with any new rules regarding the E 9-1-1 surcharge; and providing for periodic review of the costs associated with the E 9-1-1 program and other programs (such as the disability program), and the revenues derived from the surcharge to ensure that these revenues are in line with the associated costs of the program.

V. CONCLUSION

In summary, RNK urges the Department to consider creating rules regarding the E 9-1-1 surcharge requiring collection of the surcharge by the entity directly providing E 9-1-1 service to subscribers and not holding the underlying telecommunications provider responsible for the

⁸ *Comments of Verizon* (in response to the DTE's request for proposals for post-2007 funding mechanism), Docket No. DTE 06-33 (filed Jul. 28, 2006).

collection or remittance of such surcharge. RNK looks forward to working with the Department to further develop these ideas.

Respectfully submitted,

/s/

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